

CONFERENCE REPORT
The Protection of Religious Minorities:
Religious Freedom and Human Rights in Post-Communist Europe

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In coordination with the East Central European Center at the Harriman Institute at Columbia University and the Jagiellonian University's Human Rights Center and Research Center on Jewish History and Culture in Poland, the Columbia University Center for the Study of Human Rights brought some seventy scholars, human rights activists and religious leaders from over twenty nations to Wawel hill in Krakow, Poland, for a three-day conference in March, 1998. The conference was charged with coming to terms with one of the most theoretically vexing, and practically difficult, problems facing the human rights community today: the protection of religious freedom and the safeguarding of religious minorities. Overall, the conference examined a variety of facets to this problem, from the theoretical difficulty of distinguishing between ethnic, national and religious persecution to the grassroots problem of alleviating it. While the immediate focus of the proceedings was the specific reality of religious persecution in the context of post-communist Europe, the issues debated and questions posed have wide application.

In an effort at analytical clarity, this report reorganizes the substance of the five plenary sessions and fourteen workshops and roundtables into four broad categories. Specifically, I begin with a reconstruction of the debate over the definition of 'religious minority' and the practical difficulty of uniting a discussion of 'religious minority' and 'religious freedom,' as at times majority religious groups are among the persecuted while at other times, such groups are the agents of persecution. This complete, I will place these definitions in the context of developments in post-Communist Europe, outlining some of the case-specific observations made by the conference in an effort to understand the historical circumstances and how they affect the reality of religious-based persecution in that region of the world. Finally, I will address possible solutions to this problem, first focusing on how governments, NGOs, and the international legal

community have turned their attention to these questions to date, and concluding with suggestions by the conference participants, for future action.

Freedom, Religion, Religious Freedom and Religious Minorities

Krassimir Kanev of the Bulgarian Helsinki Committee identified the problem of definitions most succinctly in posing two central questions to the conference at large. “The central questions,” Kanev posited, “are first, what is going to be protected? And second, from whom is it going to be protected?” Indeed, while Kanev’s first question highlights the core theoretical difficulty of determining exactly what kind of behavior fits under the purview of ‘religious rights,’ his second underscores that it is not only governments, but often other religious groups which help perpetuate the persecution against their minority cousins.

Thus the first question addressed by the conference regarded the nature of religious rights. Some, like the Columbia Human Rights Center Pew Fellow Balazs Schanda, argued for a more limited definition of ‘religion.’ Schanda argued that when determining which groups need be protected under the guise of religious freedom, one should consider only those organizations which have a “transcendental attitude and a creed.” For many participants, this definition was unacceptable. Tim Jensen of the University of Odense in Denmark remarked that “such a definition of religion is problematic, as it is ultimately based on definitions of normalcy -- which is set by the majority.” Jensen continued, “These traditional definitions are the greatest tool of the discriminators; they semantically define certain religious groups out of existence.”

David Little, Director of the U.S. Institute of Peace’s Working Group on Religion, Ideology and Peace, took a more moderate view, arguing, “The focus should be on ‘belief related human rights,’ not ‘religious human rights.’” “In practice,” Little felt, “religious and non-religious freedoms often collapse, even if in theory there is something distinguishable between them.” This comment opened the floor to a discussion of other rights substantively connected to religious freedom. Among the most important, Jeremy Gunn of the John F. Kennedy Review Board and Peter Danchin of Columbia University agreed, were the freedom of expression and the freedom of association.

Others eschewed the attempt to reach a construction of a specifically religious set of human rights altogether, moving the discussion even further afield from any conception based on a traditional definition of religion. Willy Fautre, the President of Human Rights Without Borders, was most succinct in presenting this view. According to Fautre, “It is a misconception to consider secular human rights as opposite religious human rights. In fact, each of the rights that are characterized as religious are enjoyed by other groups in society. Often this reliance on the term ‘religious human rights’ is a disadvantage.”

In a sense, the last part of Fautre’s remark begs Kanev’s second question. Whether or not use of the term ‘religious human rights’ is disadvantageous will invariably depend on Kanev’s ‘from whom these rights are in need of protection.’ Certainly in the conventional setting, where an authoritarian regime is openly hostile to all forms of religious activity, the term religious human rights merely denotes yet another sphere of activity in need of protection. Where the persecution of religious minorities, however, is a function of the activities of majority religious groups alone or in combination with friendly governments and/or a democratic public opinion, categorizing this set of human rights as ‘religious’ may be problematic, as Fautre suggests.

For Little, the answer is to focus on the “protection of a norm of non-discrimination and belief rights.” Yet even this, Little concedes, is only a partial answer as, “The concept of anti-

discrimination in a discussion of ‘religious rights’ can be problematic. Being against beliefs of racial superiority, for example, can be seen to conflict with the freedom to have a religious-based belief in superiority.” Another example is the right to, and the right to be protected from, proselytization. At what point does one religious group’s attempts to attract members begin to infringe on the right of another group’s ability to practice its own religion? If anything is certain, it is that once a polity moves from a model of broad-based official discrimination against all forms of religious activity to a multi-religious state in which only certain religions are favored, the issues become much more complicated.

Religion in Context: Part of the Problem *and* Part of the Solution

In a very concrete sense, the historical progression described above is what makes the case of post-Communist Europe so essential to a more complete understanding of these theoretical problems. As Jagiellonian University’s Irena Borowik explained, “The importance of this issue in East Central Europe is self-evident. In the past, the Communist authorities attempted to unify all through an omnipresent internationalist ideology which provided a threat to traditional and non-traditional religions alike. The rejection of communism, however, led to the rise of religious minoritarianism.” This “revolt against sameness,” as Borowik’s colleague at Jagiellonian, Anna Orla-Bukowska, calls it, has engendered attempts by the new political majorities to “link ethnicity to those of the traditionally minority religious faiths” in an effort to re-isolate them politically, according to Borowik.

Although this model -- first authoritarian-imposed anti-religious sameness, then the revolt against sameness and minoritarianism, followed by a ‘democratically’ imposed sameness -- describes the general flow of post-communist developments in Eastern and Central Europe, the evolution of policies proposed by the world’s largest religious organizations has also had an impact on the state of religious freedom in the region today. Much of the conference’s discussion of such matters focused on the Roman Catholic Church.

According to Father John Pawlikowski of the Catholic Theological Union in Chicago, Vatican II was the crucial turning point from a human rights perspective. “After Vatican II,” Pawlikowski stated, “one cannot be Catholic without embracing human rights.” When asked by Peter Juvilier of Barnard College whether Catholic theology had in fact changed so dramatically since the Church’s support of fascists like the Ustasha in Croatia and Monsignor Jozef Tiso of Slovakia during the Second World War, Pawlikowski’s answer was resoundingly affirmative. “Under pre-Vatican II theology,” he explained, “the survival of the Church was deemed essential to human salvation. As such, the potential spread of Weimar liberalism was seen not only as a tremendous threat to the Church, but to humanity in general. Therefore, the emphasis during World War II was not on human rights, but rather on Church survival.” “On the other hand,” Pawlikowski concluded, “John Paul II has taken Christology and made it the core of a human rights philosophy.”

Paul Hinlicky, an ordained minister of the Evangelical Lutheran Church of America currently teaching at Comenius University in Bratislava, concurred with Pawlikowski. “The theological reevaluation which takes place in John Paul II’s *New Evangelism*,” Hinlicky explained, “can only be understood in the context of Vatican II.” “In fact,” he argued, “despite certain anti-democratic episodes in Church history, if one accepts John Paul II’s theological claim that an encounter with Christ is necessary for human dignity, the Church must be pro-democratic, as one of the core values of democratic culture is human dignity.”

Nevertheless, Colgate University's Timothy Byrnes warned, "The Catholic Church is virtually the paradigmatic example of a transnational organization, and exemplifies the difficulty in keeping the periphery in accord with the center." As such, no matter what the democratic credentials of John Paul II's theological 'reevaluation' might be, or even the stated goals of his pontificate in East Central Europe, on the grassroots level the Catholic Church often remains a barrier to progress in the area of rights for religious minorities. For example, Byrnes explained, the Pope consistently has argued that one of the major goals of the East European Catholic Churches must be the reconciliation of Catholics of different nationalities. Yet in Slovakia, "rather than serving as a vehicle for reconciliation, the Catholic Church is merely another arena for ethnic competition between Hungarian and Slovakian Catholics," despite the enunciation of a clear papal policy to the contrary. This, Byrnes feels, is simply one of many examples of how in a hierarchical, geographically dispersed organization like the Catholic Church, dictates from the center may have very little impact on grassroots level behavior.

In a similar vein, Christopher Hann of the University of Kent at Canterbury described his decade-long study of the relations between the Polish Roman Catholic majority and the Uniate Ukrainian minority in Przemysl, Poland. Again, although not overtly restating Byrnes' argument about the inconsistencies between Roman Catholic Church policies emanating from Rome and those of local clergy, Hann made the similar observation that current relations between these two religious groups are hardly cordial. Not surprisingly Hann added, much of the strife between the churches has evolved only since the fall of the communist regime. Under communism, according to Hann, the two religious groups joined forces in their fight against the authoritarian government, whereas today, "The Uniate Ukrainian minority has taken the role of the Communists in the eyes of the Roman Catholic majority; the Roman Catholic elites fight their Uniate cousins in their effort to build a patriotic nation." With this comment, Hann zeroes in on the central problem in addressing the rights of religious minorities as a facet of religious freedom – that majority churches often serve as the agents of persecution. Consequently, Hann suggests, "Use of the term 'civil society' as the third sector between the state and the family – which would include religious groups – is not helpful. Perhaps, one would be better served speaking of civility." In other words, the intricacies of the East European case throws into question the common conception of civil society as a factor which affirms democracy and tolerance. Rather, when churches – viewed as civil society organizations – become centers of intolerance, or models of uncivil society, the pursuit of mere civility may be the best course.

That this pattern recurs throughout the region is unquestionable. Much of the conference's discussions concerned the persecution of traditional and non-traditional religious minority groups by majority religions. Tim Jensen noted the constant struggles of the Scientologists for recognition as a religious group. Krassimir Kanev described the plight of religious minorities in the Balkans. And Carolyn Wah outlined the difficulties faced by the Jehova's Witnesses throughout Europe. Indeed, Viktor Yelensky's comment about Ukraine could serve as a model observation for all the countries discussed by merely changing the names of the respective majority and minority religions. In Ukraine, Yelensky, the Editor-in-Chief of *Liudina i Svit*, stated, "as the Orthodox Church tries to revive religion, it attacks the Catholic Church's activities as polonization."

Yet part of the blame for the current state of affairs also must be placed on western churches for their behavior during the communist years, in the opinion of Robert Goekel of SUNY-Genesco. From the 1950s to the 1970s, "western churches strove for access, institutional ties and political influence, and measured success from that alone," Goekel explained. These

attempts, however, “came at the expense of the minority churches.” In support of his argument, Goekel outlined the history of the German and American Lutheran Churches’ contact in the Eastern bloc under communism. He described how western church leaders went east, and in order to assure a return invitation, eschewed contact with all minority church leaders. Goekel clearly implied -- although he did not directly argue -- that these actions contributed to the disdain the majority churches have for religious minorities in the transitional era. While this position certainly proved controversial for some conference members (most notably President Emeritus Donald Shriver of the Union Theological Seminary who argued, “It was human contact alone that was most important.”), others provided anecdotal evidence in support of Goekel’s position. Paul Hinlicky, for example, recounted an experience in Moscow in the mid-1970s when a small Russian Protestant church desperately sought a meeting with an American Lutheran leader who, fearful of losing favor with his Soviet hosts, refused to meet with the small parish.

Governments, NGOs and International Organizations

Aside from majority religions, the conference spent much time discussing the impact of other societal institutions on the freedom of religion and the plight of religious minorities in post-communist Europe. This interchange focused on three kinds of institutions: national governments, NGOs, and organizations created by international law.

To open the examination of government action, David Little outlined a typology of government responses to minority religions. Little’s typology included, (a) prejudicial treatment, (b) administrative treatment / repression (i.e., selective use of law), and (c) outright oppression. This typology sets out the range of government behavior vis-à-vis religious groups, from a country like the United States, on one end, in which certain less traditional religious groups suffer prejudice, to one like China, on the other end, in which the spiritual expression of millions is prohibited outright. Turning to the countries of post-communist Europe, the conference examined the cases of Hungary and Russia in much more detail as illustrative of points approaching ‘prejudicial treatment’ and ‘outright oppression’ respectively.

In regard to Hungary, Balazs Schanda spoke at length about recent jurisprudence of the Hungarian Constitutional Court which concerns the rights of religious minorities. Schanda described the process by which religious groups become registered in Hungary. First such groups must have at least 100 members in order to demonstrate that they have “a minimum threshold of public acceptance.” Second, they must have a charter which declares the church as having a “religious purpose.” Finally, if a judge determines, at his or her discretion, that a given organization was set up “to practice religion,” such group is deemed as such. While Schanda defended the Hungarian Court as having “worked out a legally regulated compromise which adequately addresses the problem of conflicting rights... by considering the protection of religious rights as a whole rather than focusing entirely on minority religious groups,” others at the conference found the Hungarian position wanting. Krystyna Daniel of Jagiellonian University criticized the Court for “leaving room to allow big churches to use ‘totalitarian’ power to elbow out minority churches.”

In Russia, on the other hand, recent legislation severely curtails the ability of churches (other than the Orthodox Church) to practice their faith. It seems that in Moscow, the politics of religious freedom more directly interacts with national politics in part due to the instability of Russian politics. As a result, according to Yuri Dzhiblazde of the School for International and

Public Affairs at Columbia University, “The Russian government has sought the support of the Russian Orthodox Church in its search for allies.” Meanwhile, “the institutions of civil society in Russia have also failed to promote religious tolerance, along with the intellectuals.” This confluence of events led Dzhiblazde to conclude, “The political dimension of religious life in Russia has been controversial and disturbing.” It was agreed by all that this statute presents one of the most blatant challenges to the protection of religious freedom in the region.

The actions of the NGO and local communities, however, have been more consistently positive. A number of conference members described the successes achieved by their own NGOs. This interchange provided a forum for an exchange of ideas and experience, and proved one of the most interesting of the conference. For example Ingrid Baumannova of the Foundation for a Civil Society in Bratislava described how her organization has worked intermittently on “democracy networking, education, bridgebuilding, mediation, lobbying, and monitoring.” One of her most memorable successes was a program which enlisted Slovak adolescents to help maintain and restore local Jewish cemeteries. Similarly, Janina Gorz and Piotr Trojanowski of the Krakow Pedagogical University described their experiences leading a Hebrew and Jewish studies program at a Krakow high school in which Polish students immersed themselves in Jewish culture and history for a year, even learning Hebrew. Such programs, it was agreed, make great strides towards the creation of a society based on tolerance.

International law and organizations, on the other hand, were not received as well. Although the conference noted a few rulings of the European Court of Human Rights which have helped the cause of religious minorities, most agreed that these organizations had done little to alleviate the problems facing Eastern and Central Europe. As Jeremy Gunn explained, “The problem with international organizations is that different definitions and groups have different meanings and status in different countries.” Furthermore, he added, “the OSCE High Commissioner on Minorities only deals with very specific local issues, and its only tool is moral persuasion.” As such, the conference concluded that, with the exception of a few discrete cases, the mechanisms of international law have made disappointingly little impact.

Solving the Problem for Tomorrow

In recognition of these shortcomings, and in an effort to capitalize on these successes, the group finally turned its attention to potential initiatives for the future. A number of conference members began the discussion by underscoring the paramount importance of acting locally. Slobodanka Markowska, a Pew Fellow at Columbia University from the Republic of Macedonia, implored the group to “take careful consideration of specific country issues and, above all, not to forget history.” Any initiative which failed to do so, many noted, could even exacerbate the problems, and, in the words of Yuri Dzhiblazde, “be perceived as a domestic-foreign battle.” Christopher Hann was more specific, stating, “The Uniate Ukrainian / Polish Roman Catholic tension in South Eastern Poland will not be solved by parachuting in western NGOs. Rather it is a problem that can only be solved from within.”

With the importance of local action established, the conference began thinking about goals. “We must do more than merely state that things are bad,” David Little told the group. In Little’s opinion, the necessary elements to pursue are (a) standard setting, (b) promotion, and (c) implementation. Others, however, were more specific in their suggestions. Dzhiblazde, for example, distinguished between goals to be achieved on a national level, and those to be achieved more locally. “On the national level,” he argued, “we must open a discussion to force

an understanding of the majority churches as contributors to a given society while embracing the ideal of a diversity of other religions. On the local level, we should pursue educational activities and confront ethnic intolerance at every step.” Still others, like Balazs Schanda, took a more humanistic approach, stating that his goal was to “create a broader ecumenical sense of understanding.”

Nevertheless, despite the differences in emphasis, these sets of goals coalesce nicely. Schanda’s comment serves well as a caption modifying the entire project. Similarly, although Little most likely had in mind the setting of concrete definitions and rules of law, the value Dzhiblادze places in recognizing the contributions of religion to society and the importance of protecting individual spirituality through diversity can be thought of as the ultimate policy goal religious human rights law pursues. Dzhiblادze’s emphasis on education and the confrontation of intolerance also strikes to the core of any possible attempt at promotion.

As for implementation, the conference provided a host of strategies. First of all, it was agreed that despite the difficulty of enforcing international law and institutions, it is imperative that the human rights community “use those institutions that work and bring those cases which are possible to whatever enforcement mechanism possible,” in the words of Jeremy Gunn. Krassimir Kanev concurred, noting that “Strasbourg litigation really panics government.” Yet at the same time he noted, “The problem is to chose the institution and venue carefully. For example, the Bulgarian government has no idea what the Special Rapporteur is or says.”

Tim Jensen argued for the incorporation of schools wherever possible in the drive to educate. In his opinion, “We should encourage states to provide a religious education which approaches all religions in the same manner, from their myths to their rituals.” This, he felt, would inculcate the youth with the ability to objectively compare and consider a wide diversity of religious experiences. “If states can be consistent in the teaching of different faiths,” Jensen concluded, “it would be a great step.”

Another concrete goal for future activity, it was agreed, should be increased interaction among activists inside and outside the region. David Little suggested, to the conference’s approval, that Internet connections be instituted as a venue for the exchange of materials, “especially as per concrete specific work that has proven successful.” Little also felt that a course of study should be developed and resources set aside to establish a literature. On this point, Willy Fautre added, “It would be helpful to hold periodic roundtables with representatives of the academic world and representatives of human rights NGOs.” Such roundtables, the conference concluded, would provide a necessary periodic venue for interaction among those dedicated to resolving these issues, whether they be monitors, activists, church leaders or academics.

Kanev also stressed the importance of building networks as well as that of employing the media. In his opinion, such a network should be among the highest priorities as, in his experience, “governments generally want to give in to human rights monitors, rather than risk international embarrassment.” Kanev also stressed the importance of having local people serve in this capacity. “Ideally,” he continued, “they could come from churches as well.” Such people, Kanev felt, would be better suited to engaging in direct work within the religious institutions. For Kanev, keeping the monitoring and activist community open to churches is essential. He concluded, “We must keep the debate on religious freedom open for all voices in all churches. We must involve minority religious groups before they become endangered.” All of this would be difficult, however, without the continual use of the media sources in any given country.

Thus, with Krassimir Kanev's comments, the conference ended. In conclusion, from many of the smallest details to the broadest conceptual expectations, it proved to be quite a success. Jagiellonian University proved itself a gracious and professional host; Krakow and Wawel, a wonderful setting. Yet more importantly, by bringing together such a large number of similarly motivated people, the conference provided a prototypical forum for the networking which so many of the participants felt was so important. At the same time, the diversity of those who took part -- from the more sympathetic religious leaders to the most vocal of human rights activists -- allowed many an opportunity to examine the full complexity of the problem which would be impossible in a more homogeneous setting. Indeed, it seems, this is the central brilliance of the Columbia University Human Rights Center's entire project. In bringing together such a diversity of leaders for such a condensed, intense endeavor, the project challenges its participants to re-examine the paradigms upon which many have based their careers. Not that people's minds were changed, which was not the goal; rather, core beliefs were strengthened and a deeper understanding was reached. This, I would argue, is the mark of success. Certainly, however, much more can be done. For example, the 1998 conference barely touched on issues specific to Islam, and it never squarely set forth a division of labor among actors inside and outside the region. Nevertheless, during those three days in March, in the shadow of Wawel Cathedral -- a religious structure which serves as an axis mundi of Polish cultural and national history -- one could not help but conclude that real progress had been made.